

DISTRICT OF COLUMBIA

DISTRICT OF COLUMBIA CODE ANNOTATED
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*** THIS SECTION IS CURRENT THROUGH THE 1997 SUPPLEMENT ***
*** (PERMANENT AND TEMPORARY LEGISLATION AS OF APR. 12, 1997)
(EMERGENCY LEGISLATION AS OF MAR. 31, 1997) ***

TITLE 43. PUBLIC UTILITIES
CHAPTER 18. CABLE TELEVISION

D.C. Code @ 43-1844.1 (1997)

@ 43-1844.1. Landlord-tenant relationship

(a) No landlord of a residential property shall:

(1) Interfere with the installation of cable television facilities upon his or her property or premises, except that a landlord may require:

(A) That the installation of cable television facilities conform to those reasonable conditions and architectural controls set forth by the landlord as being necessary to protect the safety, functioning, appearance of the premises, and the convenience and well-being of other tenants;

(B) That the cable television company or the tenant or a combination thereof bear the entire cost of the installation, operation, or removal of the facilities; and

(C) That the cable television company agrees to indemnify the landlord for any damages caused by the installation, operation or removal of the facilities.

(2) Demand or accept payment from any tenant, in any form, in exchange for permitting cable television service or facilities on or within his or her property or premises, or from any cable television company in excess of any amount allowed by the Office upon application by the landlord. The Office shall, by rule, provide procedures by which landlords may apply for and receive adequate compensation following notice provided in accordance with due process of law.

(3) Discriminate in rental charges or otherwise between tenants who receive cable television service and those who do not.

(b) Rental agreements and leases executed prior to October 22, 1983, may be enforced notwithstanding this section.

(c) No cable television company may enter into any agreement with the owners, lessees, or persons controlling or managing buildings served by cable television, or do or permit any act that would have the effect, directly or indirectly, of diminishing or interfering with existing rights of any tenant or other occupant of the building to use or avail himself or herself to master or individual antenna equipment.

(d) The Office shall issue rules to carry out the purposes of this section.

HISTORY: Aug. 21, 1982, D.C. Law 4-142, @ 45a, as added Oct. 22, 1983, D.C. Law 5-36, @ 2(pp), 30 DCR 4289.

NOTES:

SECTION REFERENCES. --This section is referred to in @ 43-1849.

LEGISLATIVE HISTORY OF LAW 4-142. --See note to @ 43-1801.

LEGISLATIVE HISTORY OF LAW 5-36. --See note to @ 43-1802.1.

SHORT TITLE. --The first section of D.C. Law 5-36 provided: "That this act may be cited as the 'Cable Television Communications Act of 1981 Clarification Amendment Act of 1983'."

CITED in District Cablevision Ltd. Partnership v. McLean Gardens Condominium Unit Owners' Ass'n, App. D.C., 621 A.2d 815 (1993).

USER NOTE: For more generally applicable notes, see notes under the first section of this heading, part, title, subtitle, chapter, subchapter or subpart.

ILLINOIS

*** THIS SECTION IS CURRENT THROUGH PUBLIC ACT 90-573 ***
*** (1997 REGULAR SESSION) ***

CHAPTER 65. MUNICIPALITIES
ILLINOIS MUNICIPAL CODE
ARTICLE 11. CORPORATE POWERS AND FUNCTIONS
POWERS OVER CERTAIN BUSINESSES
DIVISION 42. POWERS OVER CERTAIN BUSINESSES

65 ILCS 5/11-42-11.1 (1997)

[Prior to 1/1/93 cited as: Ill. Rev. Stat., Ch. 24, para. 11-42-11.1]

@ 65 ILCS 5/11-42-11.1. [Right to receive cable television service]

Sec. 11-42-11.1. (a) In any instance in which a municipality has (i) granted a franchise to any community antenna television company or (ii) decided for the municipality itself to construct, operate or maintain a cable television system within a designated area, no property owner, condominium association, managing agent, lessee or other person in possession or control of any residential building located within the designated area shall forbid or prevent any occupant, tenant or lessee of any such building from receiving cable television service from such franchisee or municipality, nor demand or accept payment from any such occupant, tenant or lessee in any form as a condition of permitting the installation of cable television facilities or the maintenance of cable television service in any such building or any portion thereof occupied or leased by such occupant, tenant or lessee, nor shall any such property owner, condominium association, managing agent, lessee or other person discriminate in rental charges or otherwise against any occupant, tenant or lessee receiving cable service; provided, however, that the owner of such building may require, in exchange and as compensation for permitting the installation of cable television facilities within and upon such building, the payment of just compensation by the cable television franchisee which provides such cable television service, said sum to be determined in accordance with the provisions of subparagraphs (c) and (d) hereof, and provided further that the cable television franchisee installing such cable television facilities shall agree to indemnify the owner of such building for any damage caused by the installation, operation or removal of such cable television facilities and service.

No community antenna television company shall install cable television facilities within a residential building pursuant to this subparagraph (a)

unless an occupant, tenant or lessee of such residential building requests the delivery of cable television services. In any instance in which a request for service is made by more than 3 occupants, tenants or lessees of a residential building, the community antenna television company may install cable television facilities throughout the building in a manner which enables the community antenna television company to provide cable television services to occupants, tenants or lessees of other residential units without requiring the installation of additional cable television facilities other than within the residential units occupied by such other occupants, tenants or lessees.

(b) In any instance in which a municipality has (i) granted a franchise to any community antenna television company or (ii) decided for the municipality itself to construct, operate or maintain a cable television system within a designated area, no property owner, condominium association, managing agent, lessee or other person in possession and control of any improved or unimproved real estate located within such designated area shall forbid or prevent such cable television franchisee or municipality from entering upon such real estate for the purpose of and in connection with the construction or installation of such cable television system and cable television facilities, nor shall any such property owner, condominium association, managing agent, lessee or other person in possession or control of such real estate forbid or prevent such cable television franchisee or municipality from constructing or installing upon, beneath or over such real estate, including any buildings or other structures located thereon, hardware, cable, equipment, materials or other cable television facilities utilized by such cable franchisee or municipality in the construction and installation of such cable television system; provided, however, that the owner of any such real estate may require, in exchange and as compensation for permitting the construction or installation of cable television facilities upon, beneath or over such real estate, the payment of just compensation by the cable television franchisee which provides such cable television service, said sum to be determined in accordance with the provisions of subparagraphs (c) and (d) hereof, and provided further that the cable television franchisee constructing or installing such cable television facilities shall agree to indemnify the owner of such real estate for any damage caused by the installation, operation or removal of such cable television facilities and service.

(c) In any instance in which the owner of a residential building or the owner of improved or unimproved real estate intends to require the payment of just compensation in excess of \$1 in exchange for permitting the installation of cable television facilities in and upon such building, or upon, beneath or over such real estate, the owner shall serve written notice thereof upon the cable television franchisee. Any such notice shall be served within 20 days of the date on which such owner is notified of the cable television franchisee's intention to construct or install cable television facilities in and upon such building, or upon, beneath or over such real estate. Unless timely notice as

herein provided is given by the owner to the cable television franchisee, it will be conclusively presumed that the owner of any such building or real estate does not claim or intend to require a payment of more than \$1 in exchange and as just compensation for permitting the installation of cable television facilities within and upon such building, or upon, beneath or over such real estate. In any instance in which a cable television franchisee intends to install cable television facilities as herein provided, written notice of such intention shall be sent by the cable television franchisee to the property owner or to such person, association or managing agent as shall have been appointed or otherwise designated to manage or operate the property. Such notice shall include the address of the property, the name of the cable television franchisee, and information as to the time within which the owner may give notice, demand payment as just compensation and initiate legal proceedings as provided in this subparagraph (c) and subparagraph (d). In any instance in which a community antenna television company intends to install cable television facilities within a residential building containing 12 or more residential units or upon, beneath, or over real estate that is used as a site for 12 or more manufactured housing units, 12 or more mobile homes, or a combination of 12 or more manufactured housing units and mobile homes, the written notice shall further provide that the property owner may require that the community antenna television company submit to the owner written plans identifying the manner in which cable television facilities are to be installed, including the proposed location of coaxial cable. Approval of such plans by the property owner shall not be unreasonably withheld and such owners' consent to and approval of such plans shall be presumed unless, within 30 days after receipt thereof, or in the case of a condominium association, 90 days after receipt thereof, the property owner identifies in writing the specific manner in which such plans deviate from generally accepted construction or safety standards, and unless the property owner contemporaneously submits an alternative construction plan providing for the installation of cable television facilities in an economically feasible manner. The community antenna television company may proceed with the plans originally submitted if an alternative plan is not submitted by the property owner within 30 days, or in the case of a condominium association, 90 days, or if an alternative plan submitted by the property owner fails to comply with generally accepted construction and safety standards or does not provide for the installation of cable television facilities in an economically feasible manner. For purposes of this subsection, "mobile home" and "manufactured housing unit" have the same meaning as in the Illinois Manufactured Housing and Mobile Home Safety Act [430 ILCS 115/1 et seq.].

(d) Any owner of a residential building described in subparagraph (a), and any owner of improved or unimproved real estate described in subparagraph (b), who shall have given timely written notice to the cable television franchisee as provided in subparagraph (c), may assert a claim for just compensation in excess of \$1 for permitting the installation of cable television facilities within and upon such building, or upon, beneath or over such real estate. Within 30 days

after notice has been given in accordance with subparagraph (c), the owner shall advise the cable television franchisee in writing of the amount claimed as just compensation. If within 60 days after the receipt of the owner's claim, the cable television franchisee has not agreed to pay the amount claimed or some other amount acceptable to the owner, the owner may bring suit to enforce such claim for just compensation in any court of competent jurisdiction and, upon timely demand, may require that the amount of just compensation be determined by a jury. Any such action shall be commenced within 6 months of the notice given by the cable television franchisee pursuant to subparagraph (c) hereof. In any action brought to determine such amount, the owner may submit evidence of a decrease in the fair market value of the property occasioned by the installation or location of the cable on the property, that the owner has a specific alternative use for the space occupied by cable television facilities, the loss of which will result in a monetary loss to the owner, or that installation of cable television facilities within and upon such building or upon, beneath or over such real estate otherwise substantially interferes with the use and occupancy of such building to an extent which causes a decrease in the fair market value of such building or real estate.

(e) Neither the giving of a notice by the owner under subparagraph (c), nor the assertion of a specific claim, nor the initiation of legal action to enforce such claim, as provided under subparagraph (d), shall delay or impair the right of the cable television franchisee to construct or install cable television facilities and maintain cable television services within or upon any building described in subparagraph (a) or upon, beneath or over real estate described in subparagraph (b).

(f) Notwithstanding the foregoing, no community antenna television company or municipality shall enter upon any real estate or rights of way in the possession or control of any public utility, railroad or owner or operator of an oil, petroleum product, chemical or gas pipeline to install or remove cable television facilities or to provide underground maintenance or repair services with respect thereto, prior to delivery to the public utility, railroad or pipeline owner or operator of written notice of intent to enter, install, maintain or remove. No entry shall be made until at least 15 business days after receipt of such written notice. Such written notice, which shall be delivered to the registered agent of such public utility, railroad or pipeline owner or operator shall include the following information:

(i) The date of the proposed installation, maintenance, repair or removal and projected length of time required to complete such installation, maintenance, repair or removal;

(ii) The manner and method of such installation, maintenance, repair or removal;

(iii) The location of the proposed entry and path of cable television facilities proposed to be placed, repaired, maintained or removed upon the real estate or right of way; and

(iv) The written agreement of the community antenna television company to indemnify and hold harmless such public utility, railroad or pipeline owner or operator from the costs of any damages directly or indirectly caused by the installation, maintenance, repair, operation, or removal of cable television facilities. Upon request of the public utility, railroad, or owner or operator of an oil, petroleum product, chemical or gas pipeline, the community antenna television company shall provide proof that it has purchased and will maintain a policy or policies of insurance in amounts sufficient to provide coverage for personal injury and property damage losses caused by or resulting from the installation, maintenance, repair or removal of cable television facilities. The written agreement shall provide that the community antenna television company shall maintain such policies of insurance in full force and effect as long as cable television facilities remain on the real estate or right of way.

Within 15 business days of receipt of the written prior notice of entry the public utility, railroad or pipeline owner or operator shall investigate and determine whether or not the proposed entry and installation or repair, maintenance, or removal would create a dangerous condition threatening the safety of the public or the safety of its employees or threatening to cause an interruption of the furnishing of vital transportation, utility or pipeline services and upon so finding shall so notify the community antenna television company or municipality of such decision in writing. Initial determination of the existence of such a dangerous condition or interruption of services shall be made by the public utility, railroad or pipeline owner or operator whose real estate or right of way is involved. In the event that the community antenna television company or municipality disagrees with such determination, a determination of whether such entry and installation, maintenance, repair or removal would create such a dangerous condition or interrupt services shall be made by a court of competent jurisdiction upon the application of such community antenna television company or municipality. An initial written determination of a public utility, railroad, or pipeline owner or operator timely made and transmitted to the community antenna television company or municipality, in the absence of a determination by a court of competent jurisdiction finding to the contrary, bars the entry of the community antenna television company or municipality upon the real estate or right of way for any purpose.

Any public utility, railroad or pipeline owner or operator may assert a written claim against any community antenna television company for just compensation within 30 days after written notice has been given in accordance with this subparagraph (f). If, within 60 days after the receipt of such claim for compensation, the community antenna television company has not agreed to the amount claimed or some other amount acceptable to the public utility, railroad

or pipeline owner or operator, the public utility, railroad or pipeline owner or operator may bring suit to enforce such claim for just compensation in any court of competent jurisdiction and, upon timely demand, may require that the amount of just compensation be determined by a jury. Any such action shall be commenced within 6 months of the notice provided for in this subparagraph (f). In any action brought to determine such just compensation, the public utility, railroad or pipeline owner or operator may submit such evidence as may be relevant to the issue of just compensation. Neither the assertion of a claim for compensation nor the initiation of legal action to enforce such claim shall delay or impair the right of the community antenna television company to construct or install cable television facilities upon any real estate or rights of way of any public utility, railroad or pipeline owner or operator.

To the extent that the public utility, railroad, or owner or operator of an oil, petroleum product, chemical or gas pipeline deems it appropriate to supervise, monitor or otherwise assist the community antenna television company in connection with the installation, maintenance, repair or removal of cable television facilities upon such real estate or rights of way, the community antenna television company shall reimburse the public utility, railroad or owner or operator of an oil, petroleum product, chemical or gas pipeline for costs reasonable and actually incurred in connection therewith.

The provisions of this subparagraph (f) shall not be applicable to any easements, rights of way or ways for public service facilities in which public utilities, other than railroads, have any interest pursuant to "An Act to revise the law in relation to plats", approved March 21, 1874, as amended [765 ILCS 205/0.01 et seq.], and all ordinances enacted pursuant thereto. Such easements, rights of way and ways for public service facilities are hereby declared to be apportionable and upon written request by a community antenna television company, public utilities shall make such easements, rights of way and ways for public service facilities available for the construction, maintenance, repair or removal of cable television facilities provided that such construction, maintenance, repair or removal does not create a dangerous condition threatening the safety of the public or the safety of such public utility employees or threatening to cause an interruption of the furnishing of vital utility service. Initial determination of the existence of such a dangerous condition or interruption of services shall be made by the public utility whose easement, right of way or way for public service facility is involved. In the event the community antenna television company or municipality disagrees with such determination, a determination of whether such construction, maintenance, repair or removal would create such a dangerous condition or threaten to interrupt vital utility services, shall be made by a court of competent jurisdiction upon the application of such community antenna television company.

In addition to such other notices as may be required by this subparagraph (f), a community antenna television company or municipality shall not enter upon the real estate or rights of way of any public utility, railroad or pipeline owner or operator for the purposes of above-ground maintenance or repair of its television cable facilities without giving 96 hours prior written notice to the registered agent of the public utility, railroad or pipeline owner or operator involved, or in the case of a public utility, notice may be given through the statewide one-call notice system provided for by General Order of the Illinois Commerce Commission or, if in Chicago, through the system known as the Chicago Utility Alert Network.

HISTORY:

Source: P.A. 86-820; 86-1410; 90-450, @ 10.

NOTES:

NOTE.

This section was Ill.Rev.Stat., Ch. 24, para. 11-42-11.1.

EFFECT OF AMENDMENTS.

The 1997 amendment by P.A. 90-450, effective January 1, 1998, in subsection (c), inserted "or upon, beneath, or over real estate that is used as a site for 12 or more manufactured housing units, 12 or more mobile homes, or a combination of 12 or more manufactured housing units and mobile homes" in the sixth sentence and added the ninth sentence.

CASE NOTES

ANALYSIS

Retroactivity

Standing

Taking of Property

RETROACTIVITY

Notwithstanding the absence of express language in this section making it retroactive, plaintiff who alleged a continuing trespass beginning before the section's enactment could maintain an action thereunder, since the section governs not only the construction or installation of a cable television system but also its operation and maintenance. *Stone v. Omnicom Cable Television of Ill., Inc.*, 131 Ill. App. 3d 210, 86 Ill. Dec. 226, 475 N.E.2d 223 (2 Dist. 1985).

STANDING

Homeowner's association did not have standing to challenge a cable television company's installation of cable in adjoining property owned by the homeowner association's members pursuant to statute prohibiting homeowner association's from preventing a franchisee's entry upon property to install a cable television

system. *Indian Hill Neighbors' Ass'n v. American Cablesystems*, 171 Ill. App. 3d 789, 121 Ill. Dec. 677, 525 N.E.2d 984 (1 Dist. 1988).

TAKING OF PROPERTY

This section does not unconstitutionally permit a taking without just compensation because it implicitly recognizes that cable installation involves a taking, as it provides a procedure for compensating the property owner. *Times Mirror Cable Television v. First Nat'l Bank*, 221 Ill. App. 3d 340, 164 Ill. Dec. 8, 582 N.E.2d 216 (4 Dist. 1991).

MAINE

MAINE REVISED STATUTES

THIS DOCUMENT IS CURRENT THROUGH THE 1997 SUPPLEMENT
1997 FIRST SPECIAL SESSION OF THE 118TH LEGISLATURE

TITLE 14. COURT PROCEDURE--CIVIL
PART 7. PARTICULAR PROCEEDINGS
CHAPTER 710-B. CABLE TELEVISION INSTALLATION

14 M.R.S. @ 6041 (1997)

@ 6041. Installation; consent of building owner required

1. CABLE TELEVISION INSTALLATION. A tenant in a multiple dwelling unit may subscribe to cable television service, subject to the following provisions.

A. A cable operator who affixes or causes to be affixed cable television facilities to the dwelling of a tenant shall do so at no cost to the owner of the dwelling; shall indemnify the owner immediately for damages, if any, arising from the installation or the continued operation of the installation, or both; and shall not interfere with the safety, functioning, appearance or use of the dwelling, nor interfere with the rules of the owner dealing with the day-to-day operations of the property, including the owner's reasonable access rules for soliciting business.

Nothing in this section may prohibit an owner from contracting with the cable operator for work in addition to standard installation.

B. No cable operator may enter into any agreement with persons owning, leasing, controlling or managing a building served by a cable television system or perform any act which would directly or indirectly diminish or interfere with the rights of any tenant to use a master or individual antenna system.

C. A cable operator must have the owner's written consent to affix cable television system facilities to a tenant's dwelling. The owner may refuse the installation of cable television facilities for good cause only. Good cause includes, but is not limited to:

(1) Failure to honor previous written contractual commitments;
or

(2) Failure to repair damages caused by a cable operator during prior installation.

D. In the absence of written consent, the consent required by paragraph C shall be considered to have been granted to a cable operator upon his delivery to the owner, in person or by certified mail, return receipt requested by the addressee, the following:

- (1) A copy of this section;
- (2) A signed statement that the cable operator will be bound by the terms of this section to the owner of the property upon which the cable television system facilities are to be affixed; and
- (3) Notice to the owner in clear, understandable language that describes the owner's rights and responsibilities.

E. If consent is obtained under paragraph D, the cable operator shall present and the owner and operator shall review, prior to any installation, plans and specifications for the installation, unless waived in writing by the owner. The operator shall abide by reasonable installation requests by the owner. In any legal action brought pursuant to this paragraph, the burden of proof relative to the reasonable nature of the owner's request shall be on the cable operator. The cable operator shall inspect the premises with the owner after installations to ensure conformance with the plans and specifications. The cable operator shall be responsible for maintenance of any equipment installed on the owner's premises and shall be entitled to reasonable access for that maintenance. Unless waived in writing by the owner, the cable operator, prior to any installation, shall provide the owner with a certificate of insurance covering all the employees or agents of the installer or cable operator, as well as all equipment of the cable operator, and must indemnify the owner from all liability arising from the operator's installation, maintenance and operation of cable television facilities.

F. If consent is obtained under paragraph D and the owner of any such real estate intends to require the payment of any sum in excess of a nominal amount defined in this subsection as \$ 1, in exchange for permitting the installation of cable television system facilities to the dwelling of the tenant, the owner shall notify the cable operator by certified mail, return receipt requested, within 20 days of the date on which the owner is notified that the cable operator intends to extend cable television system facilities to the dwelling of a tenant of the owner's real estate. Without this notice, it will be conclusively presumed that the owner will not require payment in excess of the nominal amount mentioned in this section specified for such connection. If the owner gives notice, the owner, within 30

days after giving the notice, shall advise the cable operator in writing of the amount the owner claims as compensation for affixing cable television system facilities to his real estate. If, within 30 days after receipt of the owner's claim for compensation, the cable operator has not agreed to accept the owner's demand, the owner may bring an action in the Superior Court to enforce his claim for compensation. If the Superior Court decides in favor of the owner and orders the cable operator to pay the owner's claim for compensation, the cable operator shall reimburse the owner for reasonable attorneys fees incurred by the owner in litigation of this matter before the Superior Court. The action shall be brought within 6 months of the date on which the owner first made demand upon the cable operator for compensation and not after that date.

It shall be presumed that reasonable compensation shall be the nominal amount, but such presumption may be rebutted and overcome by evidence that the owner has a specific alternative use for the space occupied by cable television system facilities or equipment, the loss of which shall result in a monetary loss to the owner, or that installation of cable television system facilities or equipment upon the multiple dwelling unit will otherwise substantially interfere with the use and occupancy of the unit or property to an extent which causes a decrease in the resale or rental value of the real estate. In determining the damages to any such real estate injured when no part of it is being taken, consideration is to be given only to such injury as is special and peculiar to the real estate and there shall be deducted from the damages the amount of any benefit to the real estate by reason of the installation of cable television system facilities.

G. None of the steps enumerated in paragraph F, to claim or enforce a demand for compensation in excess of the nominal amount, shall impair or delay the right of the cable operator to install, maintain or remove cable television system facilities at a tenant's dwelling on the real estate. The Superior Court shall have original jurisdiction to enforce this paragraph.

H. No person owning, leasing, controlling or managing any multiple dwelling unit served by a cable television system may discriminate in rental or other charges between tenants who subscribe to these services and those who do not, or demand or accept payment in any form for the affixing of cable television system equipment on or under the real estate, provided that the owner of the real estate may require, in exchange for permitting the installation of cable television system equipment within and upon the real estate, reasonable compensation to be paid by the cable operator. The

compensation shall be determined in accordance with this subsection.

I. As used in this subsection, unless the context otherwise indicates, the following terms have the following meanings.

- (1) "Cable television operator," "cable operator" or "operator" means any person, firm or corporation owning, controlling, operating, managing or leasing a cable system or any lawful agent appointed by any one of the persons or entities mentioned in this subparagraph.
- (2) "Multiple dwelling unit" means any building or structure which contains 2 or more apartments or living units.
- (3) "Owner" means the person or persons possessing legal title to real estate or the lawful agent appointed by an owner.
- (4) "Tenant" means one who has the temporary use and occupation of real property owned by another person.

MASSACHUSETTS

GENERAL LAWS OF MASSACHUSETTS

Chapter 166A: Section 22. Interference with rights of building occupants served by system; installation; consent of building owners; multiple dwelling units.

Section 22. No operator shall enter into any agreement with persons owning, leasing, controlling or managing buildings served by a CATV system, or perform any act, that would directly or indirectly diminish or interfere with existing rights of any tenant or other occupant of such a building to the use of master or individual antenna equipment.

An operator who affixes, or causes to be affixed, CATV system facilities to the dwelling of a tenant shall do so at no cost to the landlord of such dwelling, shall indemnify the landlord of such dwelling for any damage arising out of such actions, and shall not interfere with the safety, functioning, appearance or use of such dwelling.

The consent required by section thirty-five of chapter one hundred and sixty-six shall be deemed to have been granted to an operator upon his delivery to the owner or lawful agent of the owner of property upon which he proposes to affix CATV system facilities of a copy of this section and a signed statement that he agrees to be bound by the terms of this section.

An owner of property, or his lawful agent, may sue in contract to enforce the provisions of an operator's agreement under this section.

No person owning, leasing, controlling or managing a multiple dwelling unit or units or a manufactured housing community, as defined in section thirty-two F of chapter one hundred and forty served by a CATV system shall discriminate in rental or other charges between tenants or manufactured home owners or occupants who subscribe to such CATV services, and those who do not; provided, however, that the owner of such real estate may require reasonable compensation in exchange for permitting the installation of CATV system equipment within and upon such real estate, to be paid by an operator, and any such taking and compensation shall be determined in accordance with the provisions of chapter seventy-nine.

No person owning, leasing, controlling or managing a multiple dwelling unit or units, or a manufactured housing community, as defined in section thirty-two F of chapter one hundred and forty, shall prohibit or otherwise prevent an operator from entering such buildings or manufactured homes for the purpose of constructing, installing or servicing CATV system facilities if one or more tenants or occupants of a multiple dwelling unit or units, or one or more owners or occupants of a manufactured home or homes, have requested such CATV services. A cable television operator shall not make an installation in an individual dwelling unit or manufactured home unless permission has been given by the tenant occupying such unit or the owner or occupant of such manufactured home.

An owner whose property is injuriously affected or diminished in value by occupation of the ground or air or otherwise by such construction of CATV system facilities may recover damages therefor from the operator pursuant to chapter seventy-nine. The right of an operator to construct, install or repair CATV system facilities and to maintain CATV services shall not be delayed or impaired by the assertion of a specific claim, or the initiation of legal action to enforce such claim. The superior court shall have exclusive original jurisdiction of all actions seeking injunctive relief to permit the construction, installation or repair of CATV system facilities.

A cable television operator shall indemnify the landlord for any damage caused by the installation, operation or removal of cable television facilities. An owner of property may require that the installation of cable television facilities conform to such reasonable conditions as are necessary to protect the safety, functioning and appearance of the premises, and the convenience and well being of other tenants.

MINNESOTA



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**Chapter Title: CABLE COMMUNICATIONS**
Section: 238.22**Text: ■**

238.22 Definitions.

Subdivision 1. Scope. The terms used in sections 238.22 to 238.27 have the meanings given them in this section.

Subd. 2. Dwelling ■ unit. "Dwelling ■ unit" means a single unit providing complete, independent, living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Subd. 3. Multiple dwelling complex. "Multiple dwelling complex" means a site, lot, field, or tract of land or water, other than a condominium, cooperative, or mobile home park, whether occupied or under construction, containing more than four ■ dwelling ■ units.

Subd. 4. Property owner. "Property owner" means any person with a recorded interest in a multiple dwelling complex, or person known to the cable communications company to be an owner, or the authorized agent of the person.

Subd. 5. Resident. "Resident" means a person or entity paying rent to a property owner.

Subd. 6. Access. "Access" means entrance onto the premises of the property owner and an easement for purposes of surveying, designing, installing, inspecting, maintaining, operating, repairing, replacing, or removing equipment used in the construction and operation of a cable communications system.

Subd. 7.

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**Minnesota Statutes 1997 Display Document 9 of 50****Section: 238.22 continued...**

Alternative providers. "Alternative providers" means other providers of television programming or cable communications services.

Subd. 8. Association member. "Association member" means an individual owner of a cooperatively owned multiple dwelling complex.

Subd. 9. Other providers of television programming or cable communications services. "Other providers of television programming or cable communications services" means operators of master antenna television systems (MATV), satellite master antenna television systems (SMATV), multipoint distributions systems (MDS), and direct broadcast satellite systems (DBS).

HIST: 1983 c 329 s 3; 1985 c 285 s 30-32



**Minnesota Statutes 1997 Display Document 10 of 50****Chapter Title: CABLE COMMUNICATIONS**
Section: 238.24**Text: ■**

238.24 Conditions for access.

Subdivision 1. In general. An installation of cable communications facilities under sections 238.22 to 238.27 must conform to reasonable conditions necessary to protect the safety, functioning, and aesthetic appearance of the premises, and the convenience and well-being of the property owner and residents.

Subd. 2. Owner approval. A property owner may require from a cable communications company before installation or modification of cable communications facilities, diagrams showing plans for the placement and securing of the facilities. A property owner may approve or disapprove installation plans. Approval of plans may not be unreasonably withheld.

Subd. 3. Installation; bond. The facilities must be installed in an expeditious and workmanlike manner, must comply with applicable codes, and must be installed parallel to utility lines when economically feasible. A property owner may require a cable communications company to post a bond or equivalent security in an amount not exceeding the estimated cost of installation of the cable communications facilities on the premises. Any bond filed by a cable communications company with a municipality which would provide coverage to the property owner as provided under this subdivision shall be considered to fulfill the requirements of this subdivision.

Subd. 4. Indemnify for damage. A cable communications company shall indemnify a property owner for damage caused by the company in the installation, operation, maintenance, or removal of its facilities.

Subd. 5. Relocation. A property owner may require a cable communications company, after reasonable written notice, to promptly relocate cable communications facilities on or within the premises of the property owner for the purpose of rehabilitation, redecoration, or necessary maintenance of the premises by the property owner.

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Section: 238.24 continued...

Subd. 6. Master antenna television system. Nothing in sections 238.22 to 238.27 precludes a property owner from entering into an agreement for use of a master antenna television system by a cable communications company or other television communications service.

Subd. 7. Cost allocated. A cable communications company shall bear the entire cost of the installation, operation, maintenance, and removal of a cable communications facility within the initial franchise service area.

Subd. 8. Compensation for access. (a) A cable communications company shall:

(1) compensate the property owner for the diminution in fair market value of the premises resulting directly from the installation of the nonexclusive cable communications system; and

(2) reimburse the property owner in an amount not to exceed \$100 for premises containing less than ten dwelling units, and \$200 for other premises, for actual costs incurred by the property owner with respect to the professional review of the plans and drawings regarding installation or modification of the cable communications system, associated contractual materials, and other documentation.

(b) With respect to paragraph (a), clause (1), any party appearing in a proceeding as provided under section 238.25 may introduce evidence of damages, if any, and special benefits, if any, to the property occurring by reason of the installation of the cable communications system.

Subd. 9. Not retroactive. Nothing in sections 238.22 to 238.27 affects the validity of an agreement effective before June 15, 1983 between a property owner, a cable communications company, or any other person providing cable communications services on or within the premises of the property owner.

Subd. 10. Channel capacity. (a) A property owner must provide access by a franchised cable communications company, as required under section 238.23, only if that cable company installs equipment with channel capacity sufficient to provide access to other providers of television programming or cable communications services so that residents or association members have a choice of alternative providers of those services. If the equipment is installed, the cable communications company shall allow alternative providers to use

the equipment. If some of the residents or association members choose to subscribe to the services of an alternative provider, the cable company that installed the equipment shall be reimbursed by the other providers for the cost of equipment and installation on the property on a pro rata basis which reflects the number of subscribers of each provider on that property to the total number of subscribers on that property. In determining the pro rata amount of reimbursement by any alternative provider, the cost of equipment and installation shall be reduced to the extent of cumulative depreciation of that equipment at the time the alternative provider begins providing service.

(b) If equipment is already installed as of June 15, 1983 with channel capacity sufficient to allow access to alternative providers, the access and pro rata reimbursement provisions of paragraph (a) apply.

HIST: 1983 c 329 s 5; 1985 c 285 s 33





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**Chapter Title: CABLE COMMUNICATIONS**
Section: 238.241**Text: ■**

238.241 Conditions for access by alternative providers.

Subdivision 1. Channel capacity. Cable companies granted access to a multiple dwelling complex under section 238.25 shall provide equipment with sufficient channel capacity to be used by alternative providers of television programming or cable communications services.

Subd. 2. Technical plan approval. The cable communications company shall determine the technical plan best suited for providing the necessary channel capacity sufficient to allow access to other providers. The plan must be submitted to the property owner for approval. The owner's approval may not be unreasonably withheld. No additional compensation for evaluation of the plan may be paid or given to the property owner over and above that permitted under section 238.24, subdivision 8.

Subd. 3. Duplicate connections. The cable communications company is not required to provide equipment for connecting more than one television receiver in one dwelling unit within the multiple dwelling complex. However, the company may provide duplicate connections at its discretion.

HIST: 1985 c 285 s 34





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**Chapter Title: CABLE COMMUNICATIONS**
Section: 238.242**Text: ■**

238.242 Reimbursement.

Subdivision 1. Providing alternative service. Other providers of television programming or cable communications services shall notify the cable communications company when a resident or association member occupying a dwelling unit in a multiple dwelling complex requests the services provided for by this section or section 238.241. After reaching agreement with the alternative service provider for reimbursement to be paid for use of the equipment, the cable communications company shall make available the equipment necessary to provide the alternative service without unreasonable delay.

Subd. 2. Reimbursement determination. The amount to be reimbursed must be determined under section 238.24, subdivision 10. The reimbursed amount must be paid in one installment for each instance of requested use. The payment may not be refunded upon subscriber cancellation of the alternative service.

Subd. 3. Financial records made available. The cable communications company, upon written request, shall make available to the alternative provider financial records supporting the reimbursement cost requested.

HIST: 1985 c 285 s 35



MINNESOTA STATUTES 1997

*** THIS SECTION IS CURRENT THROUGH THE 1997 LEGISLATIVE SESSIONS ***

Telecommunications

CHAPTER 237 TELEPHONE AND TELEGRAPH COMPANIES;
TELECOMMUNICATIONS CARRIERS
PRIVATE TELEPHONE SERVICES

Minn. Stat. @ 237.68 (1997)

237.68 Private shared telecommunications service

Subdivision 1. Definition. For the purposes of this section, "private shared telecommunications services" means the provision of telephone services and equipment within a user group located in discrete private premises, in building complexes, campuses, or high-rise buildings, by a commercial shared services provider or by a user association, through privately owned customer premises equipment and associated data processing and information management services and includes the provision of connections to the facilities of a local exchange and to long-distance telephone companies.

Subd. 2. Requirements. A person who owns or operates a building, property, complex, or other facility where a private shared telecommunications system is operated shall establish a single demarcation point for services and facilities provided by the telephone company providing local exchange service in the area that is mutually agreeable to the property owner or operator and the telephone company. The obligation of a telephone company to provide service to a customer at a location where a private shared telecommunications system is operated is limited to providing telephone company service and facilities up to the demarcation point established for the property where the private shared telecommunications system is located.

Subd. 3. Access to alternative providers. A tenant of a building, property, complex, or other facility where a private shared telecommunications system is operated may establish a direct connection to and receive telephone service from the telephone company providing local exchange service in the area where the private shared telecommunications system is located. At the request of a tenant where a private shared telecommunications system is operated, the owner or manager of the property shall make facilities or conduit space available to the tenant to allow the tenant to make separate connection to and to receive telephone service directly from the telephone company operating local exchange service in the area. The tenant has the choice of installing the tenant's own facilities or using the existing facilities. The facilities or conduit space must be provided by the owner or operator to the tenant at a reasonable rate and on reasonable terms and conditions. It is the obligation of the tenant to arrange for premises wire, cable, or other equipment necessary to connect the tenant's telephone equipment with the facilities of the telephone company

operating local exchange service at the location of the demarcation point.

Subd. 4. Enforcement. If the commission finds that the owner or operator of a private shared telecommunications system has failed to comply with a request under this section, the commission may order the owner or operator to make facilities or conduit space available sufficient to allow the tenant to make separate connection with the telephone company, and provide the services at reasonable prices and on reasonable terms and conditions.

Subd. 5. Exemption. A provider of private shared telecommunications services is exempt from section 237.16 if the telecommunications services are only provided to tenants or for the provider's own use.

Subd. 6. Service by local telephone company. The telephone company providing local exchange service shall provide service to anyone located within a shared services building at the demarcation point within a reasonable time upon request.

HISTORY:
1987 c 340 s 12

NOTES:

NOTE: See section 237.5799